



Speech By  
**Hon. Yvette D'Ath**


**MEMBER FOR REDCLIFFE**

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Record of Proceedings, 15 February 2018

## **CRIME AND CORRUPTION AND OTHER LEGISLATION AMENDMENT BILL**

### **Introduction**

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice) (12.52 pm): I present a bill for an act to amend the Ambulance Service Act 1991, the Crime and Corruption Act 2001, the Director of Public Prosecutions Act 1984, the Fire and Emergency Services Act 1990, the Ombudsman Act 2001, the Police Service Administration Act 1990, the Public Service Act 2008 and the Public Service Regulation 2008 for particular purposes. I table the bill and the explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

*Tabled paper:* Crime and Corruption and Other Legislation Amendment Bill 2018 [[170](#)].

*Tabled paper:* Crime and Corruption and Other Legislation Amendment Bill 2018, explanatory notes [[171](#)].

I am pleased to introduce the Crime and Corruption and Other Legislation Amendment Bill 2018. From the outset, I acknowledge that this bill replicates the content of the lapsed Crime and Corruption and Other Legislation Amendment Bill 2017 introduced last March in the previous parliament. As such, this explanatory speech is largely the same as the speech for the bill when it was introduced last year.

Prior to the 2015 election, the Queensland government committed to making a number of changes to the Crime and Corruption Act 2001 to restore the independence and integrity of the Crime and Corruption Commission and ensure that Queensland has a government that lives up to the highest standards of integrity. Whilst a majority of these changes have already been implemented with the passage of the Crime and Corruption Amendment Act 2016 and the Electoral and Other Legislation Amendment Act 2015, today marks another important day in this government's commitment to ensuring Queensland has a robust integrity system that serves the people of this state.

The Crime and Corruption and Other Legislation Amendment Bill 2018 has two core objectives. Firstly, the bill delivers on the government's election commitment to widen the legislative definition of 'corrupt conduct'. On 25 February 2016, the government released an issues paper titled *Corrupt conduct* under the Crime and Corruption Act 2001. The paper was designed to canvass the views of all relevant stakeholders, including the Crime and Corruption Commission, Public Service departments, key statutory bodies and non-government stakeholders, as to the appropriateness of the current definition and any possible changes. On the whole, stakeholders indicated support for the scope of the current definition of 'corrupt conduct'. However, stakeholders did request some simple changes to provide greater clarity and assist units of public administration in their interpretation of the definition.

In responding to this, the bill removes the existing requirement that conduct is engaged in for the benefit of, or detriment to, a person. It also omits the list of offences in section 15(2) which are not conclusive of corrupt conduct, but could constitute corrupt conduct. The bill also widens the definition of corrupt conduct in section 15 of the Crime and Corruption Act 2001 to capture the conduct of people outside the public sector that impairs or could impair public confidence in public administration, even

where the actions of a public sector employee have not lacked or could lack probity. For example, this type of conduct might involve collusive tendering, fraud in relation to applications for licences or permits issued by government, or where a person fraudulently obtains or retains an appointment within a unit of public administration.

This enlarged definition is appropriate given the increasing degree of outsourcing and public-private partnerships in the delivery of government services as well as the increased potential for private citizens engaged in these service delivery arrangements to engage in corrupt conduct. It is also consistent with recent changes made in both New South Wales and Victoria and has the support of the commission and units of public administration.

More broadly, the bill includes amendments which will expand the commission's investigatory jurisdiction. Specifically, the commission's corruption functions have been widened to allow the commission to investigate and otherwise deal with conduct liable to allow, encourage or cause corrupt conduct and conduct connected with corrupt conduct. The commission will be able to investigate this conduct, as well as corrupt conduct, that may have happened, may be happening or may happen. The change will enable the commission to investigate and proactively address corruption risks.

This new jurisdiction may be enlivened through a variety of methods, including by way of a complaint, by the commission on its own initiative or through a referral of a matter by the Parliamentary Crime and Corruption Committee with bipartisan support. In deciding what action to take when dealing with these types of matters, the commission will be required to have regard to the public interest principle in section 34(d) of the act, which requires consideration of the nature and seriousness of the conduct, including whether it may be prevalent or systemic within a unit of public administration. If the commission decides to investigate the matter, it will be able to utilise all of the existing coercive powers available for a corruption investigation under the act, including the power to hold hearings and require the production of documents.

The second core objective of the bill is to implement recommendations of PCCC report No. 97 titled *Review of the Crime and Corruption Commission* and report No. 99 titled *Report on a complaint by Mr Darren Hall*. On 30 June 2016 the PCCC tabled report No. 97 into the operations of the commission conducted pursuant to section 292(f) of the act. The government's response to report No. 97, which was tabled on 16 December 2016, supported in full or in principle all 23 recommendations that were addressed to the government, and noted the six remaining recommendations that were addressed to either the PCCC or the commission. I seek leave to have the balance of my speech incorporated in the *Record of Proceedings*.

**Madam DEPUTY SPEAKER:** Order! Has the Speaker seen and consented to the material sought to be incorporated in accordance with standing order 25?

**Mrs D'ATH:** Yes, he has.

Division: Question put—That leave be granted.

**AYES, 52:**

**ALP, 47**—Bailey, Boyd, Brown, Butcher, Crawford, D'Ath, de Brenni, Dick, Enoch, Farmer, Fentiman, Furner, Gilbert, Grace, Harper, Healy, Hinchliffe, Howard, Jones, Kelly, King, Lauga, Linard, Lui, Lynham, Madden, McMahon, McMillan, Mellish, Miles, Miller, Mullen, B. O'Rourke, Palaszczuk, Pease, Pegg, Power, Pugh, Richards, Russo, Ryan, Saunders, Scanlon, Stewart, Trad, Whiting.

**KAP, 2**—Dametto, Knuth.

**PHON, 1**—Andrew.

**Independent, 1**—Bolton.

**Greens, 1**—Berkman.

**NOES, 39:**

**LNP, 39**—Bates, Batt, Bennett, Bleijie, Boothman, Boyce, Costigan, Crandon, Crisafulli, Frecklington, Hart, Hunt, Janetzki, Krause, Langbroek, Last, Leahy, Lister, Mander, McArdle, McDonald, Mickelberg, Millar, Minnikin, Molhoek, Nicholls, O'Connor, Perrett, Powell, Purdie, Robinson, Rowan, Simpson, Sorensen, Stevens, Stuckey, Watts, Weir, Wilson.

Resolved in the affirmative.

A number of the recommendations which called for legislative amendments have been included in the Bill and I will turn to some of the main amendments now.

The Bill lengthens the timeframe for the Commission, or a prescribed person, to seek a Queensland Civil and Administrative Tribunal (QCAT) review of a reviewable decision from 14 to 28 days.

The extended time period of 28 days will provide parties with sufficient time to consider the original decision and whether a review is appropriate and aligns with the standard time afforded parties to seek a review by QCAT under the Queensland Civil and Administrative Tribunal Act 2009.

The Bill streamlines the process that the Commission must follow to commence disciplinary proceedings against current and former public sector employees, in both its original or review jurisdiction.

No longer will the Commission be required to seek Governor in Council approval for a regulation declaring the employee's appointment to be subject to QCAT's jurisdiction.

The Bill removes this unnecessary requirement and declares any person who holds an appointment in a unit of public administration to be within the jurisdiction of QCAT.

A further amendment will require units of public administration to keep appropriate records in relation to any decision not to notify the Commission of an allegation of corrupt conduct.

Currently, this information is not necessarily documented and, prescribing this requirement in the Act will allow the Commission to more effectively exercise its monitoring function.

A number of other amendments will improve the operations of the Commission.

These include: addressing anomalies in relation to post-separation disciplinary proceedings so that the Commission and other public sector entities may transfer a disciplinary finding or delegate the authority to make a disciplinary finding to one another when an officer changes employment; allowing the Commission and public sector entities to share information relating to the disciplinary history of current and former Commission officers in prescribed circumstances; and improving civil liability protections for the Commission, its officers and police service review commissioners.

Recommendation 21 of the PCCC Report No. 97 recommended the government review the disclosure provisions of the Act—this review has been undertaken.

The Government considers it important that the Commission is supported by a disclosure regime which enables it to meet its obligations to cooperate with other entities, as recognised under section 34 of the Act.

As a result, the Bill includes amendments which will replace the existing disclosure regime with a single provision based on section 16 of the Independent Commission Against Corruption Act 1988 (NSW).

This new provision will provide the Commission with a broad power to disclose information to entities the Commission considers appropriate. For example, this may include a unit of public administration, a law enforcement agency or other Queensland integrity bodies like the Ombudsman or Auditor-General.

As part of this review, consideration was also given to the current disclosure provision in the Ombudsman Act 2001.

The Bill provides the Ombudsman with greater discretion to disclose information to Queensland and Commonwealth agencies when the Ombudsman considers they have a proper interest for the performance of their functions and liaise with the Commonwealth Ombudsman and State and Territory equivalents, when appropriate.

Finally, on 29 November 2016, the PCCC tabled its report into a complaint by Mr Darren Hall.

The PCCC referred the complaint of Mr Hall, a former Queensland Police Service officer, to the Parliamentary Crime and Corruption Commissioner for investigation.

The Commissioner concluded that the principles of procedural fairness required that, prior to publishing adverse allegations about Mr Hall in its report "Dangerous Liaisons—A Report arising from a CMC investigation into allegations of police misconduct (Operation Capri)", the Commission should have provided Mr Hall with an opportunity to show why the contemplated comments should not have been made.

On 27 February 2017, the Government response to Report No. 99 was tabled in the Legislative Assembly.

The Bill gives effect to the Government's support for Recommendation 1 by making it a legislative requirement for the Commission to provide procedural fairness to persons who may be adversely affected by a Commission report to be tabled in the Legislative Assembly, or published to the public, under the Act.

This amendment is consistent with procedural fairness requirements placed on other Queensland bodies, including the Ombudsman, Public Advocate, Public Guardian, State Coroner and Auditor-General.

To provide a sufficient implementation lead in, the Bill proposes that the changes to the definition of corrupt conduct, and associated transitional provisions, will commence on a day to be fixed by proclamation.

This will allow the Commission to work with units of public administration to provide education and guidance on the appropriate assessment of how and when a matter impairs or could impair public confidence in public administration.

The remainder of the Bill will commence on assent.

The Bill is the product of close consultation with the Commission as well as other key stakeholders and I would like to formally thank officers for their consideration and cooperation.

The Bill draws together an assortment of amendments which, in their totality, reaffirms this Government's commitment to an independent and strong Crime and Corruption Commission.

This Government never takes for granted the important role of the Commission and all public sector bodies in the fight against corruption in Queensland.

I commend the Bill to the House.

## **First Reading**

**Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice) (1.05 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

## **Referral to Legal Affairs and Community Safety Committee**

**Mr SPEAKER:** Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.